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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re TREMONT SECURITIES LAW,
STATE LAW AND INSURANCE
LITIGATION

Master Docket No. 08-Civ-11117 (TPG)

CUMMINS INC.,

Plaintiff,

- against -

Civil Action No. 1:10-9252 (TPG)

NEW YORK LIFE INSURANCE
COMPANY, et al.,

Defendants.

NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law and Declaration of Maria T. Galeno and exhibits thereto, Defendants New York Life Insurance Company and New York Life Insurance and Annuity Corporation, by and through their undersigned counsel, will move this Court at the United States Courthouse, 500 Pearl Street, New York, New York, for an Order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing Plaintiff Cummins Inc.'s Third Amended Complaint filed with this Court on October 29, 2012, for the reasons set forth in the accompanying memorandum, and for such other and further relief as the Court deems just and proper.

Dated: New York, New York
December 7, 2012

PILLSBURY WINTHROP SHAW PITTMAN LLP

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